

REMARKS/ARGUMENTS

The Examiner is thanked for the performance of a thorough search.

By this amendment, Claims 1, 4-8, and 10-14 are amended, and no claims are added or cancelled. Hence, Claims 1, 3-8, and 10-14 are pending in the application.

I. SUMMARY OF THE REJECTIONS/OBJECTIONS

Claims 1, 3-8, and 10-14 stand rejected under 35 U.S.C. § 101 because the claimed invention allegedly is directed to non-statutory subject matter. This rejection is respectfully traversed.

Claims 1, 3-8, and 10-14 stand rejected under 35 U.S.C. § 112(1) as allegedly failing to comply with the written description requirement. This rejection is respectfully traversed.

Claims 1, 3, 4, 8, 10, and 11 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over U.S. Patent Publication No. 2002/0007303 to Brookler et al. (“*Brookler*”) in view of U.S. Patent Publication No. 2004/0024656 to Coleman (“*Coleman*”). This rejection is respectfully traversed.

Claims 5 and 12 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over *Brookler*, in view of *Coleman*, and further in view of U.S. Patent Publication No. 2002/0052774 to Parker et al. (“*Parker*”).

Claims 6 and 13 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over *Brookler*, in view of *Coleman*, and further in view of U.S. Patent No. 6,826,540 issued to Plantec et al. (“*Plantec*”).

Claims 7 and 14 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over *Brookler*, in view of *Coleman*, and further in view of U.S. Patent No. 6,535,885 issued to Nardone et al. (“*Nardone*”).

II. THE REJECTIONS NOT BASED ON THE CITED ART

A. 35 U.S.C. § 101

Claims 1, 3-8, and 10-14 stand rejected under 35 U.S.C. § 101 because the claimed invention allegedly is directed to non-statutory subject matter. Claim 8 is amended herein to recite that the computer-readable medium is a storage medium carrying instructions which, when executed by one or more processors, cause the one or more processors to perform the recited steps. It is respectfully submitted that a carrier wave cannot be a storage medium, such as any of the storage mediums described in the Specification (see also main memory 206, ROM 208, and storage device 210 of FIG. 2). Removal of the 35 U.S.C. § 101 rejection with respect to Claims 8 and 10-14 is therefore respectfully requested.

With respect to Claims 1 and 3-7, it is unclear how Claims 1 and 3-7 lack utility, even without the amendment to Claim 8. It is presumed that with the above amendment to Claim 8, the rejection of Claims 1 and 3-7 under 35 U.S.C. § 101 will also be removed. The Examiner is asked to call the representatives for the Applicants if the Examiner has further comments regarding this particular issue.

B. 35 U.S.C. § 112(1)

Claims 1, 3-8, and 10-14 stand rejected under 35 U.S.C. § 112(1) as allegedly failing to comply with the written description requirement. The Office Action stated that the originally filed specification does not disclose “members of the online community that are not associated with said particular party that defined said survey” and “wherein the user input does not initiate the creation of said survey.” This is incorrect. The specification does not explicitly recite the above features word-for-word; however, the specification at least inherently discloses these features.

With respect to the limitation “members of the online community that are not associated with said particular party that defined said survey,” the specification gives specific examples where any member of the community may obtain survey results on their mobile phone. Support for a community member obtaining movie reviews, for example, is found in the following excerpt:

Items 1, 2, 3 and 4 represent selectable options. According to one embodiment, if a user selects option 3 (i.e. “See Reviews”), a message is sent to gateway 102 using the WAP protocol, and eventually to web server 111 using the HTTP protocol. Web server 111 responds to the message by sending a message in HTTP protocol, which results in data being sent to the mobile device 110 causing the mobile device 110 to generate the following display:

Reviews for Gone in 60
Seconds (PG-13)
Average rating: ***
1) ***** This film rocks! (2)
2) * Very poor (0)
3) ** OK (1)
4) *** good effects, but poor.. (2)

OK Cancel

In addition, support for any member of the community being able to obtain survey results is reflected in originally-filed Claim 1, which recited “transmitting said survey results, using said second protocol, from said server to members of said online community in response to requests received by said server in said second protocol.”

In both of these examples, the survey results are available to every member of the community. Clearly every member includes members who did not define the survey. Therefore, a limitation that indicates that members of the community that did not define the survey are able to access the survey results is clearly supported by the written description of the original specification.

With respect to the limitation “wherein the user input does not initiate the creation of said survey,” the Specification states that a mobile device may send a request to a gateway where the request is for obtaining results of a survey (page 6, lines 10-20; see also page 19, line 1 to page 20, line 20). It is inherent that the request for survey results does not initiate the creation of the survey because the request comes *after* the survey results are gathered. Therefore, it is clear from the Specification that a request for survey results does not initiate the creation of the survey.

Based on the foregoing, removal of the 35 U.S.C. § 112(1) rejection with respect to Claims 1, 3-8, and 10-14 is respectfully requested.

III. THE REJECTION BASED ON THE CITED ART

Claims 1, 3, 4, 8, 10, and 11 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over *Brookler* in view of *Coleman*.

A. CLAIMS 1 AND 8

Brookler and *Coleman*, individually or in combination, fail to disclose all the features of Claim 1.

1. Brookler teaches away from the recited server of Claims 1 and 8

According to Claims 1 and 8, the recited mobile device supports a first protocol (e.g., WAP), but not a second protocol (e.g., HTTP), whereas the recited server supports the second protocol, but not the first protocol. A problem solved by Claims 1 and 8 is that using the techniques recited in Claims 1 and 8, mobile devices may submit opinion data to, and request survey results from, a server **with which the mobile devices are unable to communicate directly**. Therefore, Claims 1 and 8 recite a gateway that receives opinion data and requests

for survey results from mobile devices and transmits the opinion data and requests to a server.

The Office Action equates: (1) the server of Claim 1 with the publishing engine 14 of *Brookler*, (2) the gateway of Claim 1 with the database and analysis engine 22 of *Brookler*, and (3) the mobile device of Claim 1 with the respondent 16 of *Brookler*. According to *Brookler*, however, both the publishing engine 14 (the alleged server) and the respondent 16 (the alleged mobile device) **support** the first protocol (e.g., WAP). Indeed, the publishing engine 14 publishes a survey directly to the respondents 16 (see FIG. 1 and paragraph [0030] of *Brookler*). Thus, not only does *Brookler* fail to teach or suggest that the recited server supports a second protocol and not a first protocol, *Brookler* **teaches away** from this feature of Claim 1. Thus, even if *Coleman* does teach the features of Claim 1 that the Office Action alleges, one of ordinary skill in the art at the time the invention would not have combined *Brookler* and *Coleman*.

2. *Brookler and Coleman fail to teach or suggest the recited member of Claims 1 and 8*

Claims 1 and 8 additionally recite “wherein said member provides user input, that indicates a second opinion, relative to a different survey, results of which other members of said online community may request and receive.” The Office Action did not specifically equate this feature of Claims 1 and 8 with any portion of *Brookler* or *Coleman*. Indeed, both *Brookler* and *Coleman* lack any teaching or suggestion that the second mobile device is a mobile device of a member of the recited online community, which member (1) requests survey results provided by a first mobile device relative to a first survey and (2) provides an opinion relative to a different survey, which other members of the online community may request and receive. With respect to *Brookler*, *Brookler* fails to teach or suggest that

respondents/users 16 are able to request any data, much less survey results from other members of an online community. With respect to *Coleman*, *Coleman* fails to teach or suggest that the alleged member (of the second mobile device) is able to provide opinions of his/her own, much less opinions to different surveys. Therefore, there is no equivalent in either *Brookler* or *Coleman* to the recited “member” of Claims 1 and 8.

Based on the foregoing, *Brookler* and *Coleman*, individually or in combination, fail to teach or suggest all the features of Claims 1 and 8. Thus, Claims 1 and 8 are patentable over *Brookler* and *Coleman*. Removal of the 35 U.S.C. § 103(a) rejection with respect to Claims 1 and 8 is therefore respectfully requested.

B. CLAIMS 3-7 AND 10-14

Claims 3-7 and 10-14 are dependent claims, each of which depends (directly or indirectly) on one of the claims discussed above. Each of Claims 3-7 and 10-14 is therefore allowable for the reasons given above for the claim on which it depends. In addition, each of Claims 3-7 and 10-14 introduces one or more additional limitations that independently render it patentable.

For example, Claim 4 recites, among other things:

...
the step of transmitting said opinion data from said gateway to said server
includes **transmitting said opinion data over a network to which
both said gateway and said server are connected.** (emphasis added)

The Office Action alleges that *Brookler* teaches this feature of Claim 4 by asserting that “*Brookler* shows the database 22 (claimed gateway) and publishing engine 14 (claimed server) are interconnected through the Internet” (page 7). However, *Brookler* fails to teach that database 22 and publishing engine 14 are interconnected through the Internet, much less any type of network. The only network described in *Brookler* is the network over which

publishing engine 14 publishes surveys to users and over which the users provide responses to the database 22. There is no network over which database 12 and publishing engine 14 communicate.

Due to the fundamental differences already identified, to expedite the positive resolution of this case a separate discussion of limitations in the other dependent claims is not included at this time, although the Applicants reserve the right to further point out the differences between the cited art and the novel features recited in the dependent claims.

IV. CONCLUSION

For the reasons set forth above, it is respectfully submitted that all of the pending claims are now in condition for allowance. Therefore, the issuance of a formal Notice of Allowance is believed next in order, and that action is most earnestly solicited.

The Examiner is respectfully requested to contact the undersigned by telephone if it is believed that such contact would further the examination of the present application.

Please charge any shortages or credit any overages to Deposit Account No. 50-1302.

Respectfully submitted,

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